

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

MARY HELEN GRIMM
Claimant

VS.

SABETHA COMMUNITY HOSPITAL
Respondent

AND

FARM BUREAU MUTUAL INSURANCE COMPANY
Insurance Carrier

Docket No. 196,555

ORDER

Claimant appeals from a Preliminary Hearing Order dated February 17, 1995 entered by Administrative Law Judge James R. Ward.

ISSUES

Claimant describes the issue in his brief as follows: "As indicated in Claimant's Application for Review herein, the Order Denying Compensation giving rise to this appeal neither directly or implicitly provides the Administrative Law Judge's basis for denial of medical treatment at the expense of the respondent. As a result, claimant must assume that the denial is based upon a finding as to one of the disputed jurisdictional issues found in K.S.A. 44-534a(a)(2), hence permitting claimant this appeal."

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds:

(1) The Appeals Board has jurisdiction to hear appeals from a preliminary order only if it is alleged that the Administrative Law Judge exceeded his or her jurisdiction. K.S.A. 44-551, as amended by S.B. 59 (1995). A challenge to one of the findings listed in K.S.A. 44-534a is expressly considered to be an allegation that the order exceeded the Administrative Law Judge's jurisdiction. See K.S.A. 44-534a.

(2) A denial of benefits in this case does not give adequate basis for determining whether the Appeals Board has jurisdiction to consider the appeal. The case must, therefore, be remanded with directions to specify the basis for the decision denying benefits.

The Application for Preliminary Hearing was filed in this case January 10, 1995. A benefit review conference was conducted January 23, 1995 and a preliminary hearing held on February 3, 1995. At the preliminary hearing claimant testified and offered numerous medical and employment records. At the conclusion of the hearing, the Administrative Law

Judge entered an Order stating that the request for medical treatment should be denied.

The Appeals Board recognizes the Act does not give express direction to the Administrative Law Judge requiring a statement of the basis for the decision. However, when benefits are denied and there remains a potential that those benefits were denied because of a finding not subject to review by the Appeals Board, the Appeals Board can not perform its obligations under the Act without an indication by the Administrative Law Judge as to the basis for his or her decision. In the absence of such an indication, the Appeals Board has no alternative but to remand the claim directing the Administrative Law Judge to add to the Order a brief statement of the finding or findings which acted as the basis for the decision.

WHEREFORE, the Appeals Board finds that the above-referenced appeal should be and the same is hereby remanded to Administrative Law Judge James R. Ward with a request that the Administrative Law Judge state what finding or findings were the basis for the decision denying medical benefits.

IT IS SO ORDERED.

Dated this ____ day of June 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Derek J. Shafer, Topeka, KS
 Patrick M. Salsbury, Topeka, KS
 James R. Ward, Administrative Law Judge
 George Gomez, Director